



Equal Rights

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IMPORTANT STEP TOWARD EQUALITY

The New York Minimum Wage Law Decision

BY a four-to-three decision the New York Court of Appeals on March 3, 1936, declared unconstitutional the Minimum Wage Law for Women. Chief Justice Crane wrote the prevailing opinion, in which Judges O'Brien, Hubbs and Finch concurred, while Judge Lehman's dissenting opinion was approved by Judges Crouch and Loughran.

The four judges voted that in the light of the ruling in *Adkins vs. the Children's Hospital*, in 1923, the New York statute can be seen only as unconstitutional. Three voted that the New York statute avoids constitutional defects to which the Supreme Court then pointed.

In the *Adkins* case it was held that a Federal statute providing for the fixing of minimum wages for women and children in the District of Columbia constituted—in so far, at least, as it applied to adult women—a restriction on freedom of contract protected by the Fifth and Fourteenth Amendments. The Act's purpose was declared to be that of guaranteeing a wage based on necessity of the worker, without providing that wages should have any relation to earning power. The New York statute, however, goes further than that. It sets up instrumentalities for establishing standards of wages and provides that a fair wage shall mean a wage fairly and reasonably commensurate with the value of the service or the class of service rendered.

The majority of the Court of Appeals holds that this is a difference in phraseology, not in principle; that the New York statute prohibits an oppressive and unreasonable wage, "which means both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health." The Act of Congress, it is said, had one standard, the living wage; the New York statute adds another, reasonable value. The minimum wage must include both. Thus, "what was vague before has not been made any clearer. One of the elements, therefore, in fixing the fair wage is the very matter which was the basis of the Congressional Act. Forcing the payment of wages at a reasonable value does not make impossible the principle and ruling of the *Adkins* case."

According to the press, on March 5, State Industrial Commissioner Elmer F. Andrews decided not to issue an order directing hotel and restaurant owners to pay the minimum wage fixed under the

new law pending appeal to the United States Supreme Court. If the law is not upheld, he is quoted as saying, some other protection for women and minor workers, "perhaps in common with other wage-earners, must be devised."

REPORT of

SENORA MARTA VERGARA

Member for Chile on the Inter-American Commission of Women

On the work of the Regional Labor Conference of American States, held under the auspices of the International Labor Organization of Geneva, in Santiago de Chile, January 2-15, 1936.

March 12, 1936.

[Note:
Editor:

We are happy to comply with your request to print in your Bulletin the Report of the Chilean member of the Inter-American Commission of Women on the work done on behalf of equal treatment for women workers, at the Regional Conference of the I. L. O., held in Santiago. This Report was sent to the office of the Commission for transmission to the other members of the Commission and interested organizations. This is our translation of the Report which was done in Spanish. Wherever texts, in whole or in part, of resolutions adopted by the Conference are mentioned, it must be borne in mind that they are unofficial. They may be letter perfect, but we have been unable to verify the texts quoted in this Report either in English or Spanish. The Washington Office of the I. L. O. informed us that all documents of the Conference had gone directly from Santiago to Geneva for compilation, translation and publication and that they had no copy of minutes or texts on hand to which we could refer for verification. The official report of the recommendations of the Conference will not be published, we are told, for at least another month.

DORIS STEVENS,
Chairman, Inter American Commission of Women.]

(Translation)

THE delegates to the Labor Conference of American States have concluded their meeting. The general public impression is that the conference was not of vital interest nor did it bring major practical results. Everything was dealt with in a more or less superficial manner.

Only Two Women Delegates Named to Conference

With reference to women, the first thing which we have to deplore was the negligible number of women delegates or technical advisors on an occasion when a question which was of enormous interest to women was being discussed.

Mesdames Frieda Miller and Diniz-Gonzalves, delegates respectively of the United States and Brazil, were the only exceptions. To them was added Miss Maria Ramirez, who was appointed technical advisor to the Chilean Workers' delegation, upon the request of and pressure by the

women united in the organization known as the Movement for the Emancipation of the Women of Chile.

Chilean Women and Organizations Lead in Work for Women

The following Chilean women worked extra-officially with the Conference:

Elena Caffarena de Jiles, Felisa Vergara, Herta Haussailer, Angelina Matte, Carmen de Uribe, Elena Puelma de Donoso, Isabel Canas, Eulogia Roman, Adela Gallo, Josefina Roura, Saray Cortes, Leontina Fuentes and many others.

These women represented:

The Movement for the Emancipation of Chilean Women,
The Committee Against War,
The Federation of Men and Women Employees in Public and Private Offices,
The Federation of Women,
The Cardboard Workers Union,
The Workers Federation of Chile.

Various groups of working women who represented districts around Santiago also worked with the Conference.

Concerning the work of the Conference, we are able to give the following information. The members of the "Commission on Women and Children" approved certain motions of discriminatory legislation and others based on equality which were subsequently adopted by the Conference.

Unequal Treatment Recommended

Among the proposals embodying discriminatory legislation were those of the Employers' delegate of Peru who proposed the following text:

"That the principle (sic) embodied in the Washington Convention of 1919 concerning the absolute prohibition of night work for women be ratified." (Unanimously adopted).

"That the work of women in unsanitary and dangerous industries and those contrary to good morals and customs be prohibited."

The Commission, though it left to each state to determine which industries it considers unhealthy and dangerous, recommended for consideration the following processes:

1. The cleaning of machinery and motors in motion.
2. Construction, repairing and painting of buildings, if scaffolds are necessary; that is, if the work has to be done at a height over ten metres.
3. Loading and unloading of excessive weights, the limit of which will be established by the authorities of each country.
4. The use of circular saws.
5. Manufacture and transportation of explosives and inflammable materials.

An amendment was made, proposed by the Government delegate of Brazil, stipulating that these provisions embrace buildings whether public or private. Thus amended, all the above provisions were approved by unanimous vote.

The Government delegate of Cuba also presented another motion similar to that of the Employers' Delegate of Peru, asking for ratification of the Convention prohibiting night work for women.

Equal Treatment Recommended

Among the equality motions we find that of the Employers' delegate of Peru, which is as follows:

1. Wages must be based on the nature of the work without respect to the sex of the worker.
2. Equal pay for men and women for the same work.

This motion, like the other similar one offered by the Government delegate of Cuba, ends by asking that minimum wages be fixed to avoid the exploitation of the work of women, but both underline that they must be established according to the nature of the work and not according to the sex of the worker.

All of these motions were unanimously adopted.

(Continued on Page 3)

NATIONAL WOMAN'S PARTY

Founded 1913

Object

To secure for women complete equality with men under the law and in all human relationships, and in particular to secure the adoption of the Equal Rights Amendment to the National Constitution and the Equal Rights Treaty.

The Lucretia Mott Amendment

"Men and women shall have Equal Rights throughout the United States and every place subject to its jurisdiction."
"Congress shall have power to enforce this article by appropriate legislation."

Introduced, Senate—By Senator Townsend, Del., Jan. 4, 1935
(Senate Joint Resolution No. 1.)

House—By Rep. Ludlow, Ind., Jan. 3, 1935.
(House Joint Resolution No. 1.)

Present Status—Senate—Before Judiciary Committee.
House—Before Judiciary Committee.

The Equal Rights Treaty

Article 1

"The contracting States agree that upon the ratification of this treaty men and women shall have equal rights throughout the territory subject to their respective jurisdictions."

Signed—By the Governments of Cuba, Ecuador, Paraguay, and Uruguay at Montevideo, December, 1933.

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There was another motion with an equality tendency, made by the Workers' delegate of Chile, as follows:

"Women must have a work-day equal to the work-day of men."

Once it was made clear that it applied to work by day, the motion was unanimously adopted.

Finally, another motion by the Chilean Workers' delegate, Srta. Ramirez, was unanimously adopted as follows:

"Be it recommended to the States that they legislate nationally in such a way as to obtain from the manufacturers (employers) work for women of equal responsibility with that of men."

The Chilean women who worked for the adoption of this resolution naturally appreciate the difficulty of getting the private employer to apply this regulation one hundred per cent. But it is believed that an irritating inequality which exists in this device used by the employer for paying women a lower wage without contravening the letter of the law can be ended. Public offices should have been included in this motion, though one does not observe in this domain the unequal treatment of the sexes which exists in factories.

New Fields for Women Recommended

In other motions which were presented new fields of work were theoretically offered to women, as in the motion proposed by the Government delegate of Brazil, which says:

"The service of inspection of women's work must be entrusted to a Commission of Women duly qualified for this work."

From the Government woman delegate of the United States (Miss Frieda Miller):

"Be it resolved that this Conference recommends to the Governments which are making housing plans for working people, that they adopt as a fixed rule that women participate in the drawing up of those plans."

And from the Woman Workers' delegate of Chile:

"Legislation is recommended to the end that the unpaid work done by the women inmates of prisons be paid for by the persons or institutions enjoying the fruit of their labor."

All these motions were unanimously adopted.

Public Hearing Denied Women

The Chilean representative of the Inter-American Commission of Women did all in her power to make known the wishes of this organization. First, she distributed and read at various headquarters of women's organizations the appeal of the Inter-American Commission, and, later on, she spoke on the same subject in a theater to the Conference at a public gathering, expressly organized for this purpose and to which were invited delegates and members of the Geneva Secretariat of the International Labor Office. Later, she distributed to all the members of the Conference the

same appeal in Spanish and English and she also gave numerous copies of it to the press.

She asked the President of the Conference for a public hearing before the Conference, through Senores Enrique Vergara Robles and Jorgo Gustavo Silva, Government delegates of Haiti, and through Sr. Villegas, Minister from Panama to Chile, and Sr. Tapia, Government delegates from Panama. The day the report of the Commission on Women's Work came before the Conference, the same request was also made by Miss Frieda Miller, Government delegate of the U. S. A., by a Government delegate from Chile, the Workers' delegate from Ecuador, and also by Sr. Moises Poblete Troncoso, a Chilean and member of the Geneva Office of the International Labor Office. But in spite of these numerous requests for a public hearing, it was impossible to obtain it. The excuses for denying a public hearing were given by Mr. Butler, Director of the International Labor Office, who said that three years ago the Geneva office had decided never to allow anyone not a member of delegations to speak, and by Sr. Serani, Chairman of the Conference, who said that an exception would have been made for Sra. Vergara, but having refused similar requests from other outside organizations, it would not be justifiable to grant this exception to Sra. Vergara. Miss Frieda Miller informed the representative of the Inter-American Commission, through Miss McDermott, that she had done what she could to obtain the hearing.

In conclusion, we add to this report the resolutions approved concerning the work of women which we have not considered above.⁽¹⁾ These added to the above-mentioned resolutions constitute the sum total of all recommendations adopted on this subject.

Wages

3. A fixed minimum wage must be established for each job in the industries and commerce.
4. The maximum time allowed for the payment of wages due must be one month.
5. The wages of women, whether single or married (minors 18 years of age included), shall be paid to them personally.

Work-Day

1. The maximum hours for a day's work for women over 18 years of age shall be, without modification, 8 hours per day and 48 hours per week.
2. Women must have a maximum day's work equal to that of men.
3. Exceptions in the laws on the 8 hours day's work must not apply to operators and employees of telephone, telegraph and post-office services, except in those cases where the law determines the maximum duration of work to be 48 hours per week.

Medical Assistance for Maternity

The Conference invites the Governnig Board of the International Labor Office of Geneva to study the possibility and suitability of submitting to the International Labor Office's Conference a project of complementary recommendation to the Convention of 1919 relative to a form of grant of medical assistance at childbirth.

(1) Space prevents printing all the resolutions.

Hygiene

1. Employers must provide separate and appropriate quarters in work centers to enable women to wash, change clothes, and for their general use.

2. Employers must provide seats necessary to facilitate the work of women and children, provided that the nature of the work does not necessitate that they remain standing.

Special Departments on Women's Work in Governmental Departments

The Conference recommends that the American States take steps to establish technical divisions in the Department of Labor charged with questions relative to the conditions of work for women.

Economic Conditions of Women Workers

The Conference recommends that the International Labor Office make an effort to assemble the available data on the economic position of women workers in the various countries.

Inspection of Labor

The Conference recommends that the American States take into account paragraph 12 of the Recommendation of 1923, relating to the organization of services of inspection, which establishes that inspection "should include as many women as men," and that women in equal terms should "have the same powers and functions, and exercise the same authority as the men inspectors" and "enjoy the same rights of promotion to higher positions."

Right of Representation

The Conference recommends that the American States take into account the content of Art. 3, paragraph 2, of the Constitution of the International Labor Office, which establishes that when a question of special importance to women is to be discussed in the Conference, that at least one of the persons appointed as technical advisors must be a woman, without prejudicing the right of women to be appointed the same as men, as delegates or technical advisors, whatever questions may appear on the agenda of the meeting.

(Signed) MARTA VERGARA,

Member for Chile on the Inter-American Commission of Women.

January 16, 1936.

REPORT OF CONGRESSIONAL COMMITTEE

by Betty Gram Swing

Joint Congressional Secretary

Leaders of Parties Beware

While it is true that we have many friends in both the Democratic and Republican parties, it is becoming more apparent every day that the cause of equality for women is receiving greater attention among Republican leaders in Congress than among supporters of the Administration.

The minority leaders in both Houses are trying to bring their Republican colleagues into line

and in the sub-committee of the Senate where the amendment now rests, the two Republican members out of the four are pledged to the support of the amendment. It is being blocked by two Democrats who still prate about "States Rights." There is something paradoxical in this attitude when it emanates from the lips of avowedly Administration supporters. Perhaps if these were facing re-election they would not be so ready with such arguments.

And what of the situation in the House? This last fortnight has seen a gain of one-half a vote in the House Judiciary, that is to say one member has consented to refrain from voting. Why this "on the fence" attitude? I say it is the fault of the leaders who are blind to the fact that according to the best estimates women cast 42% of the votes in the last election. Women are the imponderable factor in this coming election and this fall every member of the House of Representatives comes up for re-election.

Millions of Women Wage Earners Will Vote in November

Eleven million women are gainfully employed in this country. They are aware of the dangers that confront their economic freedom, they have suffered the infringements of their rights as workers evidenced by such laws as the various state minimum wage bills, the married persons clause and the forty-hour bill in the District of Columbia, the throwing out of married women teachers all over the country, and the constant cry, "Give the jobs to men."

Women will go to the polls and cast their vote for the man with an eye to the interests of their constitutional rights, and the one who promises to defend their right to earn their bread and butter. The adherence of women to any political party will be largely determined by the attitude of that party to the position of women, and as long as there exist elements in all parties antagonistic to the freedom of women, especially those who are gainfully employed, women will vote for individuals and not for party.

If women act together in any appreciable degree they will be the deciding factor in this coming election and leaders are unwise to ignore such facts.

One Republican Congressman stopped me in the halls of Congress this week and said: "Have you sent word out to my state yet, that I am pledged to the Equal Rights Amendment? I want them to know how I feel about their rights." "Wise politician," I thought, after assuring him that they had been told.

Again We Remind You

Write to your Congressman; wire your Senator. Urge them to support the Equal Rights Amendment. Your effort may save the day for the Amendment this session. There is still time. Delay may be disastrous.

Adjournment is not far off. Act now.